IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.8155/07
Bahadur Mal & Anr. Vs. Sanwat Ram & Ors.

5.10.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Deepak Prakash Saini for petitioners.

The petitioners have challenged the order dated 18.8.2007 whereby their application filed in Civil Regular Appeal pending before the Additional District Judge, Khetri for appointing Court Commissioner, so as to inspect and report to the Court as to the status of the disputed property, has been rejected.

Learned counsel for the petitioner has argued that even though the reports of the Commissioner and Patwari were placed on record during

trial but they do not clarify the exact position of the site and therefore another Commissioner was required to be appointed. The learned Appellate Court has by giving cogent reasons held that when the appeal is at the stage of final disposal another Commissioner could not be appointed, more particular when the report of the Commissioner was earlier obtained and no objection thereto was filed by the appellant at that stage. The learned trial court also in rejecting the application relied on the judgment in Raghunath Rao Vs. Smt. Tumula Jai Laxmi- AIR 1988 (Orissa) 30 and Papai Amal Vs. Sualaxmi Amal- AIR 1983 (Madras) 344 and held that appointment of the Commissioner at the appellate stage would be made only in exceptional circumstances.

I do not find any error in the impugned order. The writ petition is therefore dismissed.

(Mohammad Rafiq),J.

Rs/-